Clean Water Services

March 27, 2017

Jill Fullagar
U. S. Environmental Protection Agency
Region X
Submitted via email to fullagar.jill@epa.gov

Re: OR 2012 Comment Period

Clean Water Services appreciates the opportunity to comment on EPA's proposed action on Oregon's 2012 Integrated Water Quality Assessment Report. Clean Water Services is a water resource management utility that serves more than 570,000 customers in the urban portion of Washington County, Oregon. Clean Water Services has a watershed-based NPDES permit that includes four wastewater treatment plants, the sanitary sewer conveyance system and the municipal separate storm sewer system (MS4). Clean Water Services is committed to protecting water resources in the Tualatin River watershed through innovative wastewater and stormwater services and watershed enhancement activities. For these reasons, we have focused our comments on the proposed listings in the Tualatin River watershed.

The Integrated Water Quality Assessment Report significantly impacts the Total Maximum Daily Load (TMDL) program and National Pollutant Discharge Elimination System (NPDES) permit program and, therefore, must be accurate. Of particular concern are the numerous "Category 5 – water quality limited and TMDL required" listings – many of which are not warranted based on our review of the data. Because of their significant impact on the TMDL and NPDES permit programs, all necessary steps must be undertaken to ensure the validity of "Category 5" listings. The data used as the basis for "Category 5" listings must be scientifically and statistically sound. Other listing categories (potential concern, insufficient data, etc.) must be used when current data are not scientifically and/or statistically sound and do not support a "Category 5" listing. The other listing categories can be used to guide the implementation of the ambient monitoring program.

Proposed EPA Additions

EPA has proposed the addition of several stream segments in the Tualatin River watershed for copper and zinc to the 2012 Integrated Water Quality Assessment Report. For copper, EPA noted four exceedances in Beaverton Creek and three exceedances in Rock Creek. EPA's proposed listings for copper were based on an assumed hardness of 25 mg/L. Clean Water Services used the actual hardness data associated with the individual samples rather than using a conservative assumed hardness of 25 mg/L to calculate the applicable criteria for copper. The hardness-adjusted copper criteria were then compared with the sample results (Table 1).

EPA's proposed listing for zinc in Beaverton Creek is also based on an assumed hardness of 25 mg/L and the application of the previous "total recoverable" criteria and not the current "dissolved" criteria. Since dissolved zinc and hardness data were available for these samples, Clean Water Services calculated the hardness-adjusted "dissolved" criteria and compared them with the measured values (Table 1).

Table 1: Actual Hardness and Hardness-adjusted Criteria

Metal	Sample Point	Sample Date	Total Recoverable **Conc. (µg/L)**	EPA Criterion[1] **(µg/L)**	EPA Conclusion	Actual Hardness (mg/L)	Dissolved **Conc. (µg/L)**	Corrected Criterion[2] **(µg/L)**	CWS Conclusion
Copper	Beaverton Creek at 170th	11/3/2010	3.9	3.62	Exceedance	56.9		7.3	No exceedance[3]
Copper	Beaverton Creek at 170th	7/13/2011	4.5	3.62	Exceedance	78.7		9.6	No exceedance[3]
Copper	Beaverton Creek at Guston	6/3/2010	4.2	3.62	Exceedance	56.0		7.2	No exceedance[3]
Copper	Beaverton Creek at Guston	10/5/2011	4.4	3.62	Exceedance	59.4		7.6	No exceedance[3]
Copper	Rock Creek at Brookwood	9/8/2010	5.4	3.62	Exceedance	66.7		8.4	No exceedance[3]
Copper	Rock Creek at Brookwood	11/2/2010	4.1	3.62	Exceedance	39.2		5.3	No exceedance[3]
Copper	Rock Creek at Brookwood	3/2/2011	3.7	3.62	Exceedance	37.2		5.1	No exceedance[3]
Zinc	Beaverton Creek at 170th	11/3/2010	51	36	Exceedance	56.9	18.8	73	No exceedance[4]
Zinc	Beaverton Creek at 170th	7/13/2011	219	36	Exceedance	78.7	43.4	96	No exceedance[4]

[1] EPA assumed a hardness value of 25 mg/L for the copper and zinc criteria.

[2] Criteria for copper and zinc were corrected by using the actual hardness value associated with the sample.

[3] Sample total recoverable concentrations compared with the corrected criteria.

[4] Sample dissolved concentrations compared with the corrected criteria

Using this approach, Clean Water Services did not find any exceedances of either the copper or the zinc criteria (see Table 1). Therefore, we recommend that the proposed listings for copper and zinc be removed.

Biocriteria

EPA is proposing to add 24 stream segments on a statewide basis to the 2012 Integrated Water Quality Assessment Report for biocriteria. Clean Water Services does not believe that it is appropriate to list streams for biocriteria impairment. Since TMDLs cannot be developed for biocriteria, these impairments should be addressed by listing streams for the underlying pollutants that are causing the impairment, which are often temperature, dissolved oxygen and/or nutrients. Thus, a "Category 5" listing for biocriteria is not an appropriate action. A more appropriate action would be a "Category 3B – Potential Concern" listing, which would enable DEQ or EPA to collect additional data and conduct the necessary analyses to determine the underlying pollutants that are causing the impairment.

Proposed Disapprovals

EPA added a number of stream segments in the Tualatin River watershed to Oregon's 2010 Integrated Water Quality Assessment Report based on the application of the dissolved oxygen spawning criteria for resident trout. In its 2012 Integrated Water Quality Assessment Report, DEQ proposed the deletion of many of these stream segments based on information obtained from Oregon Department of Fish and Wildlife (ODFW), which noted that resident trout spawning does not occur in these segments. In its review of the 2012 Integrated Water Quality Assessment Report, EPA disapproved DEQ's proposed action with a note stating "insufficient documentation to support use change." By enlisting the expertise of ODFW, DEQ had taken the necessary steps to document that resident trout spawning does not occur in the stream segments that were proposed for delisting. EPA should accept ODFW's expertise in this matter and approve DEQ's proposed deletion of these segments. If there are additional administrative actions that need to be taken to implement ODFW's findings, EPA should specify these actions. Since it appears that EPA's disapproval is based on taking administrative actions based on ODFW's findings, we recommend that EPA utilize one of the other listing categories (i.e., insufficient information or similar category) for the disapprovals rather than "water quality limited and TMDL required" category.

Previous Comments

In February 2014, Clean Water Services submitted detailed comments to DEQ in response to DEQ's draft 2012 Integrated Water Quality Assessment Report. However, due to an administrative oversight, these comments were not addressed by DEQ. It was our understanding that DEQ was going to forward these comments to EPA to be taken into consideration in EPA's review of the 2012 Integrated Water Quality Assessment Report. DEQ also noted that many of the proposed DEQ listings for metals would be removed by EPA based on application of current dissolved criteria. EPA's action does not indicate that these comments were taken into consideration; further, it appears that EPA did not critically review DEQ's proposed listings – it mostly appended its own listings and, as noted above, disapproved some of DEQ's proposed delistings. Clean Water Services had substantive comments on DEQ's proposed listings in the Tualatin River watershed. We believe that many of DEQ's listings were based on outdated or misapplied criteria, or unsound data. For example, DEQ listed the Tualatin River and many tributaries for lead and zinc based on the application of the outdated "total recoverable" criteria; as noted above, the application of the "dissolved" criteria with the actual hardness data shows that these streams should not be listed for lead and zinc. Additionally, Clean Water Services believes that DEQ's proposed listings for ammonia (Tualatin River), iron (Tualatin River and tributaries), biocriteria (Tualatin River and tributaries), chromium (Gales Creek), thallium (Fanno Creek), tetrochloroethylene (Fanno Creek) and several others are not warranted for the reasons noted in the February 2014 letter. We urge EPA to review the previously submitted comments (attached herewith) and make necessary adjustments to Oregon's 2012 Integrated Water Quality Assessment Report.

Conclusion
Clean Water Services and the communities it serves would be significantly impacted by the proposed 2012 Integrated Water Quality Assessment Report. Given the significant regulatory importance of these listings, we urge EPA and DEQ to work together to produce an Integrated Water Quality Assessment Report that is based on good science, representative of water quality in the segment and meets analytical standards.

In addition to the comments above, we support comments provided by the Oregon Association of Clean Water Agencies. If you have any questions or would like additional information, please contact Raj Kapur at 503.681.4424.

Sincerely,

Kenneth J. Williamson, Director
Regulatory Affairs Department

Attachment

cc: Jennifer Wigal, Oregon DEQ